

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

VICTOR NAHUM VARGAS,

Defendant.

No. 18-04066-01-CR-C-BCW

**GOVERNMENT’S OPPOSITION TO DEFENDANT’S APPEAL OF MAGISTRATE’S
ORDER OF DETENTION**

COMES NOW the United States of America, by and through Timothy A. Garrison, the United States Attorney for the Western District of Missouri, and in opposition to the defendant’s Appeal of Magistrate’s Order of Detention (D.E. 27) states as follows:

There continues to be probable cause to believe that the defendant committed the crimes of selling firearms to a person knowing and having reasonable cause to believe that person was a felon in violation of under 18 U.S.C. § 922 (d)(1) and 924 (a)(2), based upon the Complaint issued by the Magistrate Rush and the Indictment returned by the Grand Jury.

The defendant poses a risk of flight; and

The defendant presents a substantial risk to the community.

SUPPORTING SUGGESTIONS

On May 12, 2018, the defendant was charged by complaint with a violation of Title 18, United States Code, Sections 922(d)(1) and 924(a)(2). (D.E. 1.) On May 21, 2018, this Court detained the defendant following a hearing in which it cited to the affidavit supporting the complaint and found “by a preponderance of the evidence that the defendant is a risk of flight, and finds by clear and convincing evidence that the defendant is a danger to the community.” (D.E.

9, p. 2.) The defendant was subsequently indicted on June 6, 2018, on two counts of selling firearms (5 firearms on April 18, 2018, and 11 firearms on May 11, 2018), to a person knowing and having reasonable cause to believe that person was a felon. (D.E. 11.)

The defendant filed a Motion to Reopen and Reconsider Pretrial Detention (D.E. 24) asking the Court to reconsider his order of detention. The Government filed its Suggestions in Opposition (D.E. 25) to the Defendant's Motion. Judge Rush denied that request on August 1, 2018. (D.E. 26).

In response, the Government maintains that nothing has changed which would warrant revocation of the Magistrate's initial detention order, and the Government continues to maintain that no condition or combination of conditions will reasonably assure the defendant's appearance or the safety of the community. As set forth in the affidavit in support of the complaint by ATF S/A Brett O'Connor, the Government's Motion to Detain, and the proffered information at the detention hearing, while engaged in the commission of this offense, the defendant was employed in a position that gave him potential access to sensitive court documents as the supervisory custodian at the Federal Courthouse in Jefferson City, Missouri. During the defendant's course of conduct that resulted in the filing of the criminal complaint and subsequent indictment, the defendant demonstrated a willful desire to commit the offenses charged. The defendant clearly understood that the weapons he sold were going to a felon and headed to the streets of Chicago.

Moreover, the defendant repeatedly touted his ability to manufacture untraceable firearms and obliterate the serial number from firearms. For example, during a recorded conversation on April 24, 2018, the defendant explained to the CS that he had built guns and could brush the serial number and repaint it when the CS asked about making them untraceable. Further, in a text message to the CS on May 8, 2018, the defendant texted that he knows how to build untraceable

firearms.

In addition, as noted in the Pretrial Services Report, the defendant has arrests (no convictions) for battery, unauthorized entry into his girlfriend's house, domestic assault, and carrying an illegal weapon (brass knuckles). He also has a failure to appear. As a consequence, the defendant presents a danger to the community and a flight risk.

For these reasons, the defendant's Appeal of Magistrate's Order of Detention (D.E. 27) should be denied.

Respectfully submitted,

Timothy A. Garrison
United States Attorney

By /S/

Lawrence E. Miller
Assistant United States Attorney
Missouri Bar No. 35931

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on August 29, 2018, to the CM-ECF system of the United States District Court for the Western District of Missouri for electronic delivery to all counsel of record.

/S/
Lawrence E. Miller
Assistant United States Attorney